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EXAMINER

MONIKANG, GEORGE C

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 4/10/2008 have been fully considered but they are not persuasive.
2. With regards to applicant's argument that Abel and Inoue et al fail to disclose computing a weighted average of the warped acoustic correction filter, the examiner maintains his stand. Abel discloses computing a weighted average of head related transfer functions therefore it would have been obvious to compute the weighted average of the warped acoustic filter (Abel, col. 10, lines 5-14) to improve the resolution of the warped signals.
3. Applicant's arguments, filed 4/10/2008, with respect to the rejection(s) of claim(s) 20 under 10/700,220 have been fully considered and are persuasive, regarding the warped correction filter is the inverse of the low order spectral model. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Kates et al, US Patent 6,792,114 B1.
- 4.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.

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1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1, 3-4 (Application No. 10/700,220, hereinafter referred to as '220) are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5-6 of copending Application No. 10/465644 (Hereinafter referred to as '644). Although the conflicting claims are not identical, they are not patentably distinct from each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The '644 claims 1, 5-6 are a broader recitation of the same invention claimed in '220 claim 1, 3-4. The '644 claims 1, 5-6 fail to disclose obtaining a warped acoustic correction filter from the low order spectral model (Abel, fig. 10: 75) unwarping (Abel, fig. 7a: 129) the warped acoustic correction filter as claimed in '220 claims 1, 3-4. However, Abel, US Patent 6,072,877 does.

Thus it would have been obvious for '644 claims 1, 5-6 to improve their method of correcting room acoustical responses at multiple listening positions with warped acoustic correction filter from the low order spectral model (Abel, fig. 10: 75) unwarping

(*Abel, fig. 7a: 129*) the warped acoustic correction filter as taught in Abel to obtain an impulse response.

It is critical that patents issuing from these applications be commonly owned to avoid potential licensees from owing license fees to two different parties.

Claim 2 (Application No. 10/700,220, hereinafter referred to as '220) is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 2, 3 and 4 of copending Application No. 10/465644 (Hereinafter referred to as '644). Although the conflicting claims are not identical, they are not patentably distinct from each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The '220 claim 2 is a broader recitation of the same invention claimed in '644 claims 2, 3 and 4. Therefore, '644 claims 2, 3 and 4 are encompassed by '220 claim 2. It is critical that patents issuing from these applications be commonly owned to avoid potential licensees from owing license fees to two different parties.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

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to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 7-8,13-14, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abel, US Patent 6,072,877, in view of Inoue et al, US Patent 5,771,294 and further in view of Kates et al, US Patent 6,792,114 B1.

Re Claim 1, Abel discloses a method for correcting room acoustics by warping each of the room acoustical response measured at said each listener position (fig. 7a: 121); determining a general response by computing a weighted average room acoustical responses (fig. 10: 74; col. 10, lines 11-14), generating a low order spectral model of the general response (fig. 10: 74; col. 30-36); obtaining a warped acoustic correction filter from the low order spectral model (fig. 10: 75) unwarping (fig. 7a: 129) the warped acoustic correction filter. Abel fails to disclose the following, however, Inoue et al discloses the method comprising: measuring a room acoustical response at each listener position in a multiple-listener environment (Inoue et al, col. 4, lines 48-60); to obtain a room acoustic correction filter (Inoue et al, fig. 5: 38) wherein the room acoustic correction filter corrects the room acoustics at the multiple-listener positions. The

combined teachings of Able and Inoue et al also fail to disclose the warped acoustic correction filter being the inverse of a low order spectral model. However, Kates et al discloses a pole-zero model which is an inverse a low order spectral model (Kates et al, col. 4, lines 5-16).

Taking the combined teachings of Abel and Inoue et al, one skilled in the art would have found it obvious to modify the method for correcting room acoustics by warping each of the room acoustical response measured at said each listener position (fig. 7a: 121); determining a general response by computing a weighted average of the warped room acoustical responses (fig. 10: 74; col. 10, lines 11-14), generating a low order spectral model of the general response (fig. 10: 74; col. 30-36); obtaining a warped acoustic correction filter from the low order spectral model (fig. 10: 75) unwarping (fig. 7a: 129) the warped acoustic correction filter of Abel with the method comprising: measuring a room acoustical response at each listener position in a multiple-listener environment (col. 4, lines 48-60); to obtain a room acoustic correction filter (fig. 5: 38) wherein the room acoustic correction filter corrects the room acoustics at the multiple-listener positions as taught in Inoue et al so that the system could be less complex, inexpensive and provide clear noiseless to multiple listeners with a pole-zero model which is an inverse a low order spectral model as taught in Kates et al (Kates et al, col. 4, lines 5-16) can be used with the warped acoustic filter to obtain an impulse response.

Claim 8 has been analyzed and rejected according to claim 1.

Claim 14 has been analyzed and rejected according to claim 1.

Claim 20 has been analyzed and rejected according to claim 1.

Claims 7, 13 & 18 have been analyzed and rejected according to claim 1.

Claims 3-4, 9-10 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abel, US Patent 6,072,877, Inoue et al, US Patent 5,771,294 and Kates et al, US Patent 6,792,114 B1 as applied to claim 1 above, in view of Hong, US Patent Pub. 2003/0200236 A1.

Re Claim 3, the combined teachings of Abel, Inoue et al and Kates et al disclose the method according to claim 1, but fail to disclose wherein the general response is determined by a pattern recognition method. However, Hong does (para 0090).

Taking the combined the teachings of Abel, Inoue et al, Kates et al and Hong, one skilled in the art would have found it obvious to modify the method according to Abel, Inoue et al and Kates et al with wherein the general response is determined by a pattern recognition method as taught in Hong (Hong, para 0090) so that distortions introduced by the room can be corrected simultaneously to multiple-listener positions.

Re Claim 4, the combined teachings of Abel, Inoue et al, Kates et al and Hong disclose the method according to claim 3, wherein the pattern recognition method comprises a method selected from a group consisting of: a hard c-means clustering method or a fuzzy c-means clustering method (Hong, para 0090).

Claim 4, further recites, "Wherein the pattern recognition method comprises a method selected from a group consisting of: an adaptive learning method." The

combined teachings of Abel, Inoue et al, Kates et al and Hong do not disclose an adaptive learning method as claimed. Official notice is taken that both the concepts and advantages of providing an adaptive learning method are well known in the art. It would have been obvious to use an adaptive learning method since it is commonly used in adaptive filters to find filter coefficients that relate to producing least squares of the error signal.

Claim 9 has been analyzed and rejected according to Claim 3.

Claim 10 has been analyzed and rejected according to Claim 4.

Claim 15 has been analyzed and rejected according to Claim 3.

Claim 16 has been analyzed and rejected according to Claim 4.

Claims 5, 11, 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abel, US Patent 6,072,877, Inoue et al, US Patent 5,771,294 and Kates et al, US Patent 6,792,114 B1 as applied to claim 1 above, in view of Kates, US Patent 6,980,665 B2.

Re Claim 5, the combined teachings of Abel, Inoue et al and Kates et al disclose the method according to claim 1, but fail to disclose wherein the warping is achieved by means of a bilinear conformal map. However, Kates does (col. 5, lines 23-30).

Taking the combined teachings of Abel, Inoue et al, Kates et al and Kates as a whole, one skilled in the art would have found it obvious to modify the method according to Abel, Inoue et al and Kates et al with wherein the warping is achieved by means of a

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bilinear conformal map as taught in Kates (col. 5, lines 23-30) so that the method can compensate for both analog and digital signals.

Claim 11 has been analyzed and rejected according to Claim 5.

Claim 17 has been analyzed and rejected according to Claim 5.

Claim 21 has been analyzed and rejected according to claim 5.

Claims 6, 12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abel, US Patent 6,072,877 and Inoue et al, US Patent 5,771,294 and Kates et al, US Patent 6,792,114 B1 as applied to claim 1 above, in view of Brungart, US Patent 6,956,955 B1.

Re Claim 6, the combined teachings of Abel, Inoue et al and Kates et al disclose the method of claim 1, wherein the spectral model comprises a pole-zero model (Kates et al, col. 4, lines 5-16); but fails to disclose a spectral model comprising a Linear Predictive Coding (LPC). However, Brungart discloses a Linear Predictive Coding (LPC) model (Brungart, col. 9, lines 43-61).

Taking the combined teaching of Abel, Inoue et al, Kates et al and Brungart as a whole, one skilled in the art would have found it obvious to modify the method of claim 1, wherein the spectral model comprises a pole-zero model (Kates et al, col. 4, lines 5-16) with a spectral model comprising a Linear Predictive Coding (LPC) as taught in Brungart (Brungart, col. 9, lines 43-61) so that signals could be encoded at low bit rates to provide accurate estimates of signal parameters.

Claim 12 has been analyzed and rejected according to Claim 6.

Claim 19 has been analyzed and rejected according to Claim 6.

Claim 22 has been analyzed and rejected according to claims 6.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GEORGE C. MONIKANG whose telephone number is (571)270-1190. The examiner can normally be reached on M-F. alt Fri. Off 7:30am-5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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